

297
No. 10-10-00279-CR

**IN THE TEXAS COURT OF APPEALS
TENTH DISTRICT
AT WACO**

GREGG CARL BAIRD, Appellant

v.

THE STATE OF TEXAS

**APPELLANT'S MOTION FOR THE TENTH COURT OF APPEALS
TO COMPEL THE COURT REPORTER TO FILE THE
REPORTER'S RECORD ON APPEAL**

TO THE HONORABLE JUSTICES OF THE TENTH COURT OF APPEALS:

Comes now, GREGG CARL BAIRD, appellant in the above styled and numbered cause and would show to this Honorable Court:

I.

Appellant is appealing from a ten count conviction for possession of child pornography in trial court cause number 09-02494-CRF-272 styled The State of Texas v. Gregg Carl Baird in the 272nd District Court of Brazos County. The appeal has been docketed in this Court as cause number 10-10-00297-CR.

FILED
TENTH COURT OF APPEALS

DEC 07 2010

II.

Notice of appeal was timely filed on August 3, 2010. On the same date,

CHRISTOPHER S. CLARK
CLERK

appellant requested the court reporter prepare a reporter's record for appeal.

III.

The reporter's record was due in this Court on September 27, 2010. It has not been filed. There is no indication the Court has taken any steps or made an effort to ensure timely filing of the reporter's record on appeal.

IV.

Appellant has the right to appeal. He is not indigent and has paid the court reporter to produce the record and file it in a timely manner. Susan Rainwater has failed to prepare and file the record and this Court has taken no action to remedy this shortcoming which is interfering with and preventing appellant from exercising his statutory right to appeal.

V.

Both the trial court and this Court have the responsibility and ministerial duty to ensure the record is timely filed. TEX. R. APP. P. 35.3(c). This Court additionally has the authority and ministerial duty to enter any order necessary to ensure the timely filing of the appellate record. No such order has been entered or enforced in this cause.

PRAYER

Appellant prays this Court will ensure the timely filing of the reporter's record

on appeal. In the alternative, appellant requests this Court reverse the judgments of conviction because appellant has been denied, through no fault of his own, a record in which to pursue his appeal.

Respectfully submitted,



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Attorney for Appellant
Gregg Carl Baird

CERTIFICATE OF SERVICE

This is to certify a true and correct copy of this pleading was mailed to Counsel for the State of Texas, Danny Smith, District Attorney's Office, 300 E. 26th Street, Suite 310, Brazos County Courthouse, Bryan, Texas, 77803, on this the 6th day of December, 2010.



Richard E. Wetzel